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October 24, 2018

VIA ECF

Honorable Cheryl L. Pollak
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Darlene Cook, et al. v. City of New York, et al.
15-CV-6559 (ILG) (CLP)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department, and the attorney representing Defendants City of New York, Police Officer Arturo Gomez, Sergeant Edward Leisengang, Cerissa Wright, and Sasha Dawson in the above-referenced matter. Pursuant to the Court's October 10, 2018 Order, Defendants write concerning the physical file of Plaintiff Shaqueena Cook's New York City Administration for Children's Services ("ACS") records. Defendants also write to respectfully request that the Court grant a brief ten (10) day extension of time for Defendants to provide the Court with a proposed so-ordered subpoena.

As Your Honor is aware, this case concerns the emergency removal, on March 11, 2014, of two of Plaintiff Shaqueena Cook's children and the subsequent arrests of Shaqueena Cook and her aunt Plaintiff Darlene Cook on that same date. On August 31, 2018, Plaintiffs moved to compel additional discovery by a date certain, including the physical file of Shaqueena Cook's ACS records. (Civil Docket Entry No. 78.) Defendants opposed that application on September 11, 2018. (Civil Docket Entry No. 80.) In their opposition, Defendants advised the Court that the physical records were last in possession of an individual who no longer works for ACS. Thereafter, at the October 10, 2018 conference, the Court ordered Defendants to inform the Court by today if ACS has been able to locate the file in question and if not, to seek a so-ordered subpoena to compel production of same from the non-party, former ACS employee who was last in possession of the records.

Despite its best efforts, ACS has still been unable to locate the physical copy of the relevant portion of Plaintiff Shaqueena Cook's ACS records. Upon information and belief, ACS diligently attempted to locate the file by searching their storage facility, inquiring with the last

unit that had an active ACS case with Shaqueena Cook as to the whereabouts of the records, and checked to see if the records are associated with the children's current foster parents, but to no avail. Upon information and belief, ACS is unable to locate the physical copy of the relevant portion of Plaintiff Shaqueena Cook's ACS records.

With respect to the Court's Order for defendants to seek a so-ordered subpoena to be served on the former ACS employee in an attempt to locate the records, upon information and belief, there was a delay in obtaining this former employee's last known address as ACS was focusing their efforts on attempting to locate the file in addition to their regular duties. This Office, however, has been advised that issue will be remedied shortly. As such, it is the hope that this Office should be able to obtain her last known address from ACS within the week and thereafter prepare a subpoena for Your Honor's endorsement.¹ Defendants sincerely apologize for the delay in seeking this extension as the undersigned did not learn of this issue until after regular business hours today. Defendants sought Plaintiffs' consent through their counsel by telephone and email, but have not received a response.

For the foregoing reasons, it is respectfully requested that the Court grant defendants a brief ten (10) day extension, *i.e.* to and including November 2, 2018, to provide the Court with a request for a so-ordered subpoena to compel production of the records from the non-party, former ACS employee.

Defendants thank the Court for its attention to this matter.

Respectfully Submitted,

s/

John L. Garcia
Assistant Corporation Counsel

cc: Ryan Lozar, Esq.
Attorney for Plaintiffs
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Request granted
So Ordered
C/s/ Cheryl Pollak
wmj
10/29/18

¹ In addition, the requested extension of time is necessary because the undersigned is scheduled to begin trial on October 29, 2018 that is expected to last three to four days in the Southern District of New York in the matter of Thomas Girbes-Pierce v. City of New York, et al., 16 Civ. 7510. As such, the undersigned will be extremely busy preparing and conducting trial in the coming days. As such, additional time should provide the undersigned sufficient time to obtain the information from ACS and thereafter prepare a subpoena for Your Honor's endorsement.